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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

ANTHONY LEON,

Plaintiff and Appellant,

v.

COUNTY OF FRESNO et al.,

Defendants and Respondents.

F075456

(Super. Ct. No. 14CECG00191)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Kristi Culver Kapetan, Judge.

Anthony Leon, in pro. per., for Plaintiff and Appellant.

Weakley & Arendt, James D. Weakley and Brande L. Gustafson for Defendants and Respondents.

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**FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff is appealing from a judgment entered against him after the trial court granted summary judgment in favor of defendants. Plaintiff's brief asserts he was

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\* Before Hill, P.J., Detjen, J. and DeSantos, J.

assaulted by the staff of the Fresno County Jail while he was incarcerated there, and was denied medical treatment for his resulting injuries. He seems to argue that he has a valid claim against defendants for violation of his civil rights (42 U.S.C.S., § 1983) and denial of medical care (Gov. Code, §§ 844.6, 845.6). Because he has not demonstrated any prejudicial error in the judgment, we will affirm.

### **DISCUSSION**

On appeal, the trial court's judgment is presumed to be correct. (*State Farm Fire & Casualty Co. v. Pietak* (2001) 90 Cal.App.4th 600, 610.) The burden of affirmatively demonstrating error in the judgment is on the appealing party. (*Ibid.*) "This burden requires more than a mere assertion that the judgment is wrong." (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.) The appellant must raise claims of reversible error and present argument and authority on each point made. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) The appellant also bears the burden of providing an adequate record to demonstrate the error. (*Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324.)

Plaintiff challenges the granting of defendants' motion for summary judgment. In reviewing the ruling on a motion for summary judgment, we apply the same three-step analysis used in the trial court. (*Truck Ins. Exchange v. Amoco Corp.* (1995) 35 Cal.App.4th 814, 822.) First, we identify the issues framed by the pleadings. Second, we determine whether the moving defendant established facts negating the plaintiff's claims as set out in the complaint and justifying a judgment in the defendants' favor. Finally, we determine whether the plaintiff's opposition demonstrated the existence of a triable issue of material fact. (*Ibid.*)

In this case, the record is not adequate to review any claimed error in the judgment. It does not include the complaint or the answer, so we cannot identify the issues framed by the pleadings. The record also does not contain the motion for summary judgment, its supporting papers and evidence, or any opposition to it. Consequently, we

cannot determine whether defendants' motion demonstrated they were entitled to judgment as a matter of law. We also cannot determine whether plaintiff submitted opposition that raised a material factual issue requiring a trial.<sup>1</sup> Thus, the record is inadequate for review of the order granting the motion for summary judgment.

Additionally, plaintiff's brief has not identified any error in the judgment or in the trial court's order granting the motion for summary judgment. Plaintiff simply seems to argue that he has valid claims against defendants; this is insufficient to establish reversible error.

These rules apply, even though plaintiff is representing himself in this appeal. " 'A litigant has a right to act as his own attorney [citation] 'but, in so doing, should be restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts.' ' ' ( *Doran v. Dreyer* (1956) 143 Cal.App.2d 289, 290 (*Doran*).) "A party proceeding in propria persona 'is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.' ' ' ( *First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1.) " 'The fact that a layman elects to represent himself 'certainly does not excuse him from a failure of proof' of his cause of action.' ' ' ( *Doran, supra*, at p. 290.)

In his brief, plaintiff asks that this court allow him further time to prepare his case. Any request for further time to prepare a response to defendants' motion, or for other assistance in presenting plaintiff's case, should have been made in the trial court, prior to the date when plaintiff's opposition to the motion was due.

### **DISPOSITION**

The judgment is affirmed. Defendants are entitled to their costs on appeal.

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<sup>1</sup> The December 1, 2016, tentative ruling granting defendants' motion for summary judgment, which is attached to the judgment, reflects that plaintiff did not file opposition to the motion.